



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

November 21, 2017

Keith MacKay
State Stone Corporation Inc.
4340 S 300 W
Murray, UT 84107

Dear Keith,

This letter concerns a number of important matters related to your water rights.

- 1) **Water Right Title Update:** You do have a year round water diversion right under the 95-4690 water right. However this water right is still in Randy and Lee Ann Hoovey's name. You need to get title updated into your name. I have enclosed the relevant documents from our files and suggest you contact Mr. Brad Dobson of First American Title (801 578-8820) who handles water title conveyances. You will need him to research and submit a Report of Conveyance to update into you or your corporation's name. I would suggest updating to the corporation name since that update is more perpetual in nature.
- 2) **Winter Diversion:** State Stone has diverted water in the past during the winter under the subject water right. In my discussion with Bob Poulton, who is the water master over the Dump Road Ditch, where your water comes from. In talking with Bob, apparently the existing diversion gate is too high to get the low flow winter water. Higher elevation and flows of your winter water negatively affect other nearby systems that are shut down for the winter. For this reason, he tells me a new diversion and gate is needed - lower in the ditch for winter diversion. This will require some digging and a new gate, near to, or replacing your old diversion. This would be best accomplished during the winter months after November 1st, so the time of year to do this work is now. I would contact Bob Poulton at 435 425-3004 for more details, he will also need to work with your contractor when digging in the side of the ditch embankment to insure that soil is properly replaced and compacted after the gate and pipe is installed.
- 3) **Point of Diversion Change:** One option may be to change your point of diversion to another spot in the river, perhaps closer to your current operations, however this would require a "change application" and permits, a hearing and eventual installation of a new point of diversion, new pipes and possibly running electrical to a pump that would draw water from the river. This endeavor would most likely have higher costs, time delays and long term costs for pumping the river water. If you are considering and want to explore this option, please contact me for more details. My recommendation would be not to go this route for reasons named above.



- 4) **Metering:** Per my Enforcement order SEAA 1272 letter at the beginning of this year, (copy enclosed) we have notified State Stone about lack of compliance for Measuring, for some time now. This enforcement order requires your diversion to have a functioning meter or measuring device. Without a functioning measuring device, the Water Commissioner, Randy Bradbury will not allow water to be diverted into your pipe. This is why there is a currently a chain and lock on State Stone's Diversion gate. Since we replaced the battery and the meter still did not function, a new meter is now required. I would suggest that along with the installation of a new lower diversion in Dump Road Ditch is installed, that accommodations are made to install a new metering pit on the pipe. This would be a vertical 3 foot Diameter Culvert that has saddle notches cut at the bottom which to fit over the pipe. There is such a meter pit that the Hickman Valley Pipe group currently uses, near the end of the Ditch. A similar meter pit should be installed on your pipe. Again, please contact Bob Poulton about his meter pit, and he will be able to work with your contractor to make sure this is done correctly.
- 5) **New Meter:** Similar to the meter the Division of Water Rights installed for Hickman Valley pipe, we have Ultrasonic meters that mount to the outside of a pipe, as long as the pipe is steel, PVC or HDPE pipe. There are no pipe penetrations needed for the outboard ultrasonic meter. We need a full pipe and 10-20 feet of strait pipe where the meter pit is located (no joints or turns). The Division would be willing to install one of these Dynasonics ultrasonic meters on your new pipe. Although we would not charge for the labor, we would like to be reimbursed for the cost of the equipment; this would include the Meter, sensors, battery, solar panel and telemetry etc. When done, we anticipate the entire set up will run about \$3500. The advantage with using these meters is the telemetry capability where the data will be available on the internet for you (and others) to see. This way we know the flow amount and total amount diverted. This type of data helps the Division and the Water Commissioner better manage the river diversions.
- 6) Once complete, water will be documented as owned by you or State Stone, and you should be able to divert your winter water, and have an operable measuring device for compliance with the enforcement order that allows monitoring by the Water Commissioner.

I hope this letter finds you well. If you have any questions please contact me at (801) 538-7430

Sincerely,



Mike Silva
Distribution Engineer

Enclosures

cc:

Randy Bradbury, Lower Fremont Water Commissioner

Bob Poulton, Dump Road Ditch and Hickman Valley Pipe Water Master

PO Box 111, Teasdale, UT 84773



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KENT L. JONES
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January 18, 2017

State Stone Corporation Inc.
Keith Mackay
4640 S 300 W
Murray, UT 84107

RE: Enforcement Order: SEAA 1272

Dear Keith,

As we were reviewing our compliance progress for meters on the Lower Fremont system, the meter for your diversion on the Garkane canal is still not operational. As you may recall a new battery was ordered and replaced, but the meter still did not function, and a new meter may be required. We still require metering for all diversions on as one of the requirements for using water rights under Utah State Statute. We would like to have an operational meter installed to monitor your diversion. The type of meter is used is up to you.

The measurement requirement is one of the basic tenets of state water law and the responsibility is for the water users to provide a functional and accurate measuring device. This is a formal request under State Engineer's Agency Action 1272 (SEAA 1272) and must be done prior to system startup in the spring of 2017. During the winter, with systems shut down, is a perfect time to have a meter installed.

Water will not be provided into your diversion until a functioning meter has installed, (next 60 days), the existing enforcement order is back in place until a functioning measurement device is installed.

If you have any questions or comments please contact me at 801 538-7430 or by email at MikeSilva@utah.gov I also recommend that you contact Randy Bradbury, Lower Fremont Water Commissioner at the number provided below.

Sincerely,

Mike Silva
Distribution Engineer

cc: Southern Regional office- Richfield
Randy Bradbury, Water Commissioner (435) 836-2135



STATE OF UTAH -- DIVISION OF WATER RIGHTS -- DATA PRINT OUT for 95-4690

(WARNING: Water Rights makes NO claims as to the accuracy of this data.) RUN DATE: 11/16/2017 Page 1

WATER RIGHT: 95-4690 APPLICATION/CLAIM NO.: CERT. NO.:

OWNERSHIP*****

NAME: Randy and Lee Ann Hoovey
ADDR: P.O. Box 750035
Torrey, UT
INTEREST: 50%
REMARKS: 1.25 cfs out of 2.5 cfs

YOU NEED TO UPDATE TITLE ON THIS TO YOUR NAME
TITLE PROFESSIONAL NAME - BELOW *

NAME: Eric and Kathy Kankainen
ADDR: 1174 Harrison Ave.
Salt Lake City, Utah 84105
INTEREST: 50%
REMARKS: 1.25 cfs out of 2.5 cfs joint tenants

DATES, ETC.*****

LAND OWNED BY APPLICANT? Yes	COUNTY TAX ID#:
FILED: PRIORITY: / /1885 PUB BEGAN:	PUB ENDED:
ProtestEnd: PROTESTED: [No] HEARNG HLD:	SE ACTION: [] ActionDate:
EXTENSION: ELEC/PROOF:[] ELEC/PROOF:	CERT/WUC:
RUSH LETTR: RENOVATE:	RECON REQ:
	TYPE: []

PD BOOK: [95-]|MAP: []|PUB DATE:

Type of Right: Decree Source of Info: Decree Status:

LOCATION OF WATER RIGHT*****

FLOW: 2.5 cfs

SOURCE: Fremont River

COUNTY: Wayne COMMON DESCRIPTION: Torrey area

POINTS OF DIVERSION -- SURFACE:

- (1) S 500 ft W 880 ft from NE cor, Sec 14, T 29S, R 4E, SLBM
Diverting Works:
- (2) N 410 ft E 1865 ft from W4 cor, Sec 19, T 29S, R 5E, SLBM
Diverting Works:

Source:

Source:

Stream Alt Required?: No

USES OF WATER RIGHT***** ELU -- Equivalent Livestock Unit (cow, horse, etc.) ***** EDU -- Equivalent Domestic Unit or 1 Family
(The Beneficial Use Amount is the quantity of Use that this Water Right contributes to the Group Total.)

WATER USE GROUP NO. 619848.

DOMESTIC: 1.0000 EDUs

PERIOD OF USE: 01/01 TO 12/31

*****END OF DATA*****

* BRAD DOBSON
FIRST AMERICAN TITLE
215 S. STATE
SLC, UT 84111

(801) 578-8820
bdo6son@firstam.com